

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FIFTY-NINTH DAY — FRIDAY, APRIL 29, 2005

The house met at 11:15 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 441).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusec; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Absent, Excused — Griggs; Hilderbran; Martinez; Nixon; Noriega, M.; Woolley.

Absent, Excused, Committee Meeting — Gattis.

LEAVES OF ABSENCE GRANTED

On motion of Representative Reyna and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Reyna moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed.

MOTION FOR ONE RECORD VOTE

On motion of Representative Reyna and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR THIRD READING

(Gattis now present)

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 442): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Hilderbran; Martinez; Nixon; Noriega, M.; Woolley.

SB 766

HB 381

HB 868

HB 1274

HB 1409

HB 1455

HB 1458

HB 1606

HB 1647

HB 1653

HB 1893

HB 2257

HB 2348

HB 2414

HB 2574

HB 2656

HB 2671

HB 2807

HB 2900

HB 3227

HB 3262

SB 177

SB 692

SB 1342

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

HB 161

HB 312

HB 703

HB 788

HB 831

HB 841

HB 1118

HB 1244

HB 1248

HB 1255

HB 1391

HB 1398

HB 1403

HB 1508

HB 1659

HB 1800

HB 1997

HB 2027

HB 2045

HB 2068

HB 2069

HB 2071

HB 2200

HB 2202 (Herrero - no)

HB 2243

HB 2243 - STATEMENT OF LEGISLATIVE INTENT

Chapter 1102 (**HB 2243**), which passed in the 2005 Regular Session, was introduced for the purpose of clarifying Chapters 936, 1237, and 1276 (including **SB 1252**), which passed in the 2003 Regular Session.

The above legislation was not intended to apply to tow companies or other businesses who perform lockout service using a slim-jim or similar tool to open a vehicle upon the request of the owner or operator of the vehicle, but who do not perform locksmith service. The definition of locksmith service ("sells, installs, services, or maintains mechanical security devices, including deadbolts and locks") does not include lockout service where the vehicle is simply opened. Clearly, in this situation, the lock (or "mechanical security device") is being neither sold, installed, serviced, nor maintained.

The above legislation was also not intended to apply to automobile clubs or other businesses who advertise that their services include locksmith services, but who provide the services through independent contractors or on a reimbursement basis. The phrase "advertises services offered by the company using the term 'locksmith'" does not include the advertising of services that are offered by the company using the term "locksmith" when those services are not performed by the company, but by a licensed locksmith company.

Jackson

HB 2293

HB 2322

HB 2335

HB 2374

HB 2466

HB 2518

HB 2581

HB 2622

HB 2685

HB 2746

HB 2828

HB 2918

HB 2942

HB 3113

HB 3163

HB 3263

HB 3485

SB 129 (Keel - no)

SB 541

MOTION TO CONFORM CAPTIONS

Representative Reyna moved to conform the captions of the senate bills taken up in lieu of the house bills to the house bills' captions.

The motion prevailed.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 2266 ON SECOND READING

(by Baxter)

CSHB 2266, A bill to be entitled An Act relating to the authority of municipalities to enact a requirement that establishes the sales price for certain housing units or residential lots.

CSHB 2266 was read second time on April 27 and was postponed until 10 a.m. today.

Amendment No. 1

Representative Rodriguez offered the following amendment to **CSHB 2266**:

Amend **CSHB 2266** on page 1 as follows:

(1) On line 12, between "a" and "sales" insert "maximum".

(2) On line 13, between "lot" and the period insert:

"unless, following an independent feasibility study, the municipality determines that the requirement has no overall detrimental effect on the economic viability of residential subdivisions or apartment developments the requirement affects".

(3) Between lines 17 and 18 insert a new Subsection (c) to read as follows:

(c) This section does not apply to a requirement adopted by a municipality:

1) for an area as a part of a development agreement entered into before September 1, 2005, or

(2) under the provisions of Title 12, Chapter 373A Local Government Code, for a Homestead Preservation District.

(4) Strike SECTION 2 of the bill and renumber the remaining sections as appropriate.

(Hilderbran now present)

Amendment No. 1 - Point of Order

Representative Keel raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 3 of the House Rules on the grounds that the amendment changes the original purpose of the bill.

The point of order was withdrawn.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Rodriguez offered the following amendment to **CSHB 2266**:

Amend **CSHB 2266** on page 1 as follows:

(1) On line 12, between "a" and "sales" insert "maximum".

(2) Between lines 17 and 18 insert a new Subsection (c) to read as follows:

(c) This section does not apply to a requirement adopted by a municipality:

1) for an area as a part of a development agreement entered into before September 1, 2005, or

(2) under the provisions of Title 12, Chapter 373A Local Government Code, for a Homestead Preservation District.

(3) Strike SECTION 2 of the bill and renumber the remaining sections as appropriate.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Giddings offered the following amendment to **CSHB 2266**:

Amend **CSHB 2266** on page 1 by inserting between lines 17 and 18 a new Subsection (c) to read as follows:

(c) This section does not apply to property that is part of an urban land bank demonstration program under Chapter 379C.

Amendment No. 3 was adopted.

Amendment No. 4

On behalf of Representative Dukes, Representative Baxter offered the following amendment to **CSHB 2266**:

Amend **CSHB 2266** on page 1, between lines 17 and 18, by inserting the following:

(c) This section does not preclude a municipality from establishing development criteria as a condition for receipt of a tax credit or other incentive or for the purpose of preventing gentrification.

Amendment No. 4 was adopted.

CSHB 2266 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DUKES: Thank you for accepting that amendment. I just wanted to ask you some questions for clarification. Does this bill in any way preclude a city that owns property from creating a price point on which they structure the price, that may not be at the max of market value, in order to create a more reasonable price range on homes?

REPRESENTATIVE BAXTER: I think that what the city can still do under this plan is definitely pick out price points and say you have to build within these price points and that they can do this—you want to make sure that I'm not negatively affecting 525, is that right? Your house bill from yesterday?

DUKES: I'm not certain that that was—I'm not certain of what was in that bill. My question is, if the city-owned plan—the city may own a piece of property—former airport—and they decide that they are going to hire a master developer and they wish to sell this property to the developer at a price range that would still make it affordable for that developer to create affordable housing—

BAXTER: Say, hypothetically, like Mueller Airport?

DUKES: Or any base or something like that that may have had a requirement that it went back to the city once it was no longer a base. Would this bill in any way preclude a city from establishing price points on property that they own?

BAXTER: No. It absolutely would not prohibit them from establishing price points at all.

DUKES: And this bill would not in any way require that an entity that would receive tax credits or incentives under affordable housing project for the city or any other program, would be required to give those credits to a developer who does not choose to develop within those guidelines?

BAXTER: And that was the nature of your amendment that I accepted. Or someone offered and I accepted.

REMARKS ORDERED PRINTED

Representative Dukes moved to print remarks between Representative Baxter and Representative Dukes.

The motion prevailed.

CSHB 2266, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Burnam, Farrar, Gonzalez Toureilles, Herrero, Leibowitz, Naishtat, Rodriguez, Thompson, Veasey, and Villarreal recorded voting no.)

HB 1956 ON SECOND READING
(by Menendez)

HB 1956, A bill to be entitled An Act relating to the regulation of firefighters and fire departments by the Texas Commission on Fire Protection.

HB 1956 was read second time on April 20 and was postponed until 11 a.m. today.

Representative Menendez moved to postpone consideration of **HB 1956** until 10 a.m. May 5.

The motion prevailed.

GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING

The following bills were laid before the house and read third time:

HB 2491 ON THIRD READING
(by Puente)

HB 2491, A bill to be entitled An Act relating to the transfer of an ad valorem tax lien and to a contract for foreclosure of an ad valorem tax lien.

HB 2491 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2928 ON THIRD READING
(by Kolkhorst, B. Cook, Chisum, McReynolds, et al.)

HB 2928, A bill to be entitled An Act relating to projects that may be undertaken by certain development corporations with respect to business enterprises or business development.

Amendment No. 1

Representative Laubenberg offered the following amendment to **HB 2928**:

Amend **HB 2928** on third reading, in SECTION 3 of the second reading engrossment, by adding the following to the end of proposed Section 4B (a) (3), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes):

A corporation may not undertake a project authorized by this subdivision that requires an expenditure of more than \$10,000 until the governing body of the eligible city creating the corporation adopts a resolution authorizing the project after giving the resolution at least two separate readings.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Homer offered the following amendment to **HB 2928**:

Amend **HB 2928** on third reading, in SECTION 3 of the second reading engrossment, by adding the following to the end of proposed Section 4B (a) (3), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes):

A corporation may not, under a project authorized by this subdivision, provide an incentive to or make an expenditure on behalf of a business enterprise that has not previously done business within the boundaries of the city and that would directly compete with an existing business within the boundaries of the city.

Amendment No. 2 was withdrawn.

HB 2928, as amended, was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 261 ON THIRD READING (by Goodman)

HB 261, A bill to be entitled An Act relating to possession of or access to a grandchild.

HB 261 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 505 ON THIRD READING (by Hilderbran and B. Cook)

HB 505, A bill to be entitled An Act relating to the discharge of a firearm across a property line; providing a penalty.

A record vote was requested.

HB 505 was passed by (Record 443): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente;

Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Martinez; Nixon; Noriega, M.; Woolley.

STATEMENT OF VOTE

I was shown voting yes on Record No. 443. I intended to vote no.

Truitt

HB 525 ON THIRD READING (by Rodriguez, Dukes, and Coleman)

HB 525, A bill to be entitled An Act relating to the creation of homestead preservation districts, reinvestment zones, and other programs to increase home ownership and provide affordable housing.

HB 525 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Gattis, Harper-Brown, Keel, and Phillips recorded voting no.)

HB 616 ON THIRD READING (by Callegari)

HB 616, A bill to be entitled An Act relating to a landowner's liability for injuries incurred during certain recreational activities.

A record vote was requested.

HB 616 was passed by (Record 444): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Martinez; Nixon; Noriega, M.; Woolley.

Absent — Hilderbran; Hope; Jones, D.; Smith, T.

STATEMENTS OF VOTE

When Record No. 444 was taken, my vote failed to register. I would have voted yes.

Hope

When Record No. 444 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

HB 853 ON THIRD READING

(by Solomons, Leibowitz, et al.)

HB 853, A bill to be entitled An Act relating to the return of merchandise; providing a civil penalty.

HB 853 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 877 ON THIRD READING

(by Talton)

HB 877, A bill to be entitled An Act relating to certain complaints and records with respect to certain child-care facilities and family homes; providing a criminal penalty.

HB 877 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

HB 989 ON THIRD READING

(by Chisum)

HB 989, A bill to be entitled An Act relating to a mechanism to provided for recovery of certain transmission investments of electric utilities.

A record vote was requested.

HB 989 was passed by (Record 445): 137 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings;

Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Nays — Farrar; Herrero; Leibowitz; Moreno, J.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Martinez; Nixon; Noriega, M.; Woolley.

Absent — Oliveira; Smith, T.

STATEMENT OF VOTE

When Record No. 445 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

HB 1345 ON THIRD READING

(by Gattis)

HB 1345, A bill to be entitled An Act relating to the removal of a sign on a state highway right-of-way by a local law enforcement agency; authorizing a removal fee.

HB 1345 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1589 ON THIRD READING

(by Driver)

HB 1589, A bill to be entitled An Act relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.

A record vote was requested.

HB 1589 was passed by (Record 446): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins;

Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Martinez; Nixon; Noriega, M.; Woolley.

Absent — Oliveira; Smith, T.

STATEMENT OF VOTE

When Record No. 446 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

HB 2037 ON THIRD READING

(by R. Allen and B. Cook)

HB 2037, A bill to be entitled An Act relating to the seizure and disposition of property for the offense of hunting or fishing without landowner consent.

HB 2037 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2223 ON THIRD READING

(by Giddings)

HB 2223, A bill to be entitled An Act relating to the making of a notation on a forged check by a financial institution.

HB 2223 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2511 ON THIRD READING

(by Denny)

HB 2511, A bill to be entitled An Act relating to the filing of a personal financial statement by a former state officer whose successor has not qualified for office.

A record vote was requested.

HB 2511 was passed by (Record 447): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Martinez; Nixon; Noriega, M.; Woolley.

Absent — Escobar; Hope; Moreno, P.

HB 2677 ON THIRD READING
(by Driver)

HB 2677, A bill to be entitled An Act relating to certain employment records maintained by the Commission on Law Enforcement Officer Standards and Education; providing an administrative penalty.

HB 2677 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2806 ON THIRD READING
(by Morrison)

HB 2806, A bill to be entitled An Act relating to the regulation of career schools and colleges.

HB 2806 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 3469 ON THIRD READING
(by Hochberg)

HB 3469, A bill to be entitled An Act relating to the establishment of a program to provide grants to be used to reduce emissions of diesel exhaust from school buses and to the use of the Texas emissions reduction plan to fund the program.

HB 3469 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 920 ON THIRD READING
(by Uresti, Hupp, Reyna, Solis, Naishtat, et al.)

HB 920, A bill to be entitled An Act relating to protective and guardianship services for elderly and disabled persons.

Amendment No. 1

Representative Uresti offered the following amendment to **HB 920**:

Amend **HB 920** on third reading by striking Section 1.09 of the bill as amended on second reading by amendment Nos. 3 and 4 and substituting:

SECTION 1.09. Section 48.208, Human Resources Code, is amended by amending Subsection (e) and adding Subsections (c-1), (c-2), (c-3), (c-4), (c-5), (d-1), (e-1), and (e-2) to read as follows:

(c-1) Notwithstanding Subsection (c)(4), in lieu of a medical report described by Subsection (c)(4), the petition may include an assessment of the elderly or disabled person's health status as described by Subsection (c-2) or psychological status as described by Subsection (c-3), or a medical opinion of the elderly or disabled person's health status as described by Subsection (c-4), if the department determines, after making a good faith effort, that a physician from whom the department may obtain the medical report is unavailable. The department shall ensure that the person who performs an assessment of the elderly or disabled person's health or psychological status has training and experience in performing the applicable assessment.

(c-2) Except as provided by Subsection (c-4), an assessment of the elderly or disabled person's health status must be performed by a physician assistant or advanced practice nurse. The person performing the assessment shall sign a report stating:

(1) that the elderly or disabled person is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety;

(2) whether the elderly or disabled person has provided the person's medical history to the physician assistant or advanced practice nurse, as applicable; and

(3) that in the professional opinion of the physician assistant or advanced practice nurse, as applicable, the issuance of an emergency order authorizing protective services without the elderly or disabled person's consent is necessary under the circumstances.

(c-3) An assessment of the elderly or disabled person's psychological status must be performed by a licensed psychologist or master social worker who has training and expertise in issues related to abuse, neglect, and exploitation. The person performing the assessment shall sign a report stating:

(1) that the elderly or disabled person is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety; and

(2) that in the professional opinion of the licensed psychologist or master social worker, as applicable, the issuance of an emergency order authorizing protective services without the elderly or disabled person's consent is necessary under the circumstances.

(c-4) A registered nurse may perform a nursing assessment of the elderly or disabled person's health status. If the registered nurse, based on the registered nurse's professional nursing judgment, determines that the elderly or disabled person is likely to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety, the registered nurse shall report that assessment to a physician. After the registered nurse reports the assessment, the physician shall sign a written opinion stating whether:

(1) the elderly or disabled person is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety; and

(2) the issuance of an emergency order authorizing protective services without the elderly or disabled person's consent is necessary under the circumstances.

(c-5) The physician may use the registered nurse's assessment of the elderly or disabled person's health status as the basis of the physician's professional opinion under Subsection (c-4).

(d-1) If the court renders an order that is based on a petition including an assessment under Subsection (c-2) or (c-3) or a medical opinion under Subsection (c-4), the court shall order that the elderly or disabled person be examined by a physician not later than 72 hours after the time the provision of protective services begins. After performing the examination, the physician shall sign and submit to the court a medical report stating the physician's opinion whether the elderly or disabled person is:

(1) suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; and

(2) physically or mentally incapable of consenting to services.

(e) The emergency order expires at the end of 72 hours from the time [of] the order is rendered unless:

(1) the emergency order terminates as provided by Subsection (e-1);

(2) the 72-hour period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to 4 p.m. on the first succeeding business day; or

(3) the court extends the order as provided by Subsection (e-2).

(e-1) An emergency order that was rendered based on a petition that included an assessment under Subsection (c-2) or (c-3) or a medical opinion under Subsection (c-4) immediately terminates if the medical report issued under Subsection (d-1) states the physician's opinion that the elderly or disabled person:

(1) is not suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; or

(2) is physically or mentally capable of consenting to services.

(e-2) The court may extend an emergency order issued under this section [An order may be renewed] for a period of not more than 30 [14 additional] days. An extension [A renewal] order that ends on a Saturday, Sunday, or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may modify or terminate the emergency order on petition of the department, the incapacitated person, or any person interested in his welfare.

Amendment No. 1 was adopted.

HB 920, as amended, was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

GENERAL STATE CALENDAR SENATE BILLS THIRD READING

The following bills were laid before the house and read third time:

SB 374 ON THIRD READING (Callegari - House Sponsor)

SB 374, A bill to be entitled An Act relating to the repeal of the statutory provision regarding the adoption and use by the Texas Water Development Board of a capital spending plan for certain state-funded water-related programs under the board's jurisdiction.

A record vote was requested.

SB 374 was passed by (Record 448): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny;

Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Martinez; Nixon; Noriega, M.; Woolley.

Absent — Uresti.

SB 693 ON THIRD READING
(Gattis - House Sponsor)

SB 693, A bill to be entitled An Act relating to vacancies on municipal utility district boards.

A record vote was requested.

SB 693 was passed by (Record 449): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Griggs; Martinez; Nixon; Noriega, M.; Woolley.

SB 796 ON THIRD READING
(Goalsby - House Sponsor)

SB 796, A bill to be entitled An Act relating to the combative sports program.

SB 796 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Seaman requested permission for the Committee on Calendars to meet while the house is in session during bill referral today, in 3W.9, for a formal meeting, to consider the calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Calendars, during bill referral today, 3W.9, for a formal meeting, to consider the calendar.

Culture, Recreation, and Tourism, upon final adjournment today, Desk 66, for a formal meeting, to consider pending business.

PROVIDING FOR ADJOURNMENT

Representative Hughes moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. Monday, May 2.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Homer in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 12:38 p.m., adjourned until 10 a.m. Monday, May 2.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

- SB 30** to Higher Education.
- SB 42** to Public Education.
- SB 122** to Criminal Jurisprudence.
- SB 150** to Culture, Recreation, and Tourism.
- SB 297** to Natural Resources.
- SB 302** to Higher Education.
- SB 304** to Criminal Jurisprudence.
- SB 318** to Culture, Recreation, and Tourism.
- SB 325** to Human Services.
- SB 352** to Land and Resource Management.
- SB 361** to Human Services.
- SB 394** to Criminal Jurisprudence.
- SB 425** to Border and International Affairs.
- SB 434** to County Affairs.
- SB 442** to Civil Practices.
- SB 489** to Culture, Recreation, and Tourism.
- SB 526** to County Affairs.
- SB 565** to Human Services.
- SB 578** to Law Enforcement.
- SB 579** to Defense Affairs and State-Federal Relations.
- SB 588** to Environmental Regulation.
- SB 592** to Land and Resource Management.
- SB 611** to Criminal Jurisprudence.
- SB 621** to Public Health.
- SB 665** to Public Health.
- SB 679** to Criminal Jurisprudence.

SB 729 to Judiciary.
SB 738 to Environmental Regulation.
SB 739 to Environmental Regulation.
SB 740 to Land and Resource Management.
SB 756 to Corrections.
SB 781 to Insurance.
SB 782 to Insurance.
SB 805 to Insurance.
SB 840 to Natural Resources.
SB 854 to Land and Resource Management.
SB 894 to Criminal Jurisprudence.
SB 895 to Elections.
SB 909 to Criminal Jurisprudence.
SB 919 to County Affairs.
SB 925 to Criminal Jurisprudence.
SB 935 to Urban Affairs.
SB 959 to Public Education.
SB 995 to Public Health.
SB 996 to Public Education.
SB 1002 to Government Reform.
SB 1017 to Natural Resources.
SB 1032 to Energy Resources.
SB 1052 to Elections.
SB 1068 to County Affairs.
SB 1069 to Public Health.
SB 1091 to Agriculture and Livestock.
SB 1106 to County Affairs.
SB 1112 to Financial Institutions.
SB 1116 to Natural Resources.
SB 1126 to Criminal Jurisprudence.
SB 1146 to Higher Education.
SB 1147 to Judiciary.
SB 1151 to Juvenile Justice and Family Issues.
SB 1178 to Juvenile Justice and Family Issues.

- SB 1202** to Border and International Affairs.
SB 1203 to Local Government Ways and Means.
SB 1215 to Business and Industry.
SB 1224 to Civil Practices.
SB 1252 to Judiciary.
SB 1257 to Transportation.
SB 1264 to County Affairs.
SB 1265 to Criminal Jurisprudence.
SB 1283 to Insurance.
SB 1290 to Environmental Regulation.
SB 1305 to Human Services.
SB 1309 to Economic Development.
SB 1329 to Public Health.
SB 1339 to Local Government Ways and Means.
SB 1353 to Urban Affairs.
SB 1376 to Public Education.
SB 1384 to Transportation.
SB 1413 to Environmental Regulation.
SB 1421 to Urban Affairs.
SB 1424 to Judiciary.
SB 1426 to Criminal Jurisprudence.
SCR 9 to Culture, Recreation, and Tourism.

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, April 29, 2005 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

Public Education - **HB 625, HB 1445**

State Affairs - **HB 1094, HB 2819, HB 2842, HB 3090, HCR 155, SB 461, SB 1485**

Transportation - **HB 2138**

Ways and Means - **HB 361, HB 1342, HB 2611, HJR 89, SB 580**

ENGROSSED

April 28 - HB 316, HB 511, HB 628, HB 1006, HB 1021, HB 1153, HB 1214, HB 1546, HB 1568, HB 2110, HB 2313, HB 2340, HB 2438, HB 2481, HB 2579, HB 2680, HB 2808, HB 2940, HB 3010

SENT TO THE GOVERNOR

April 28 - HCR 9, HCR 110